

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6354

BILL NUMBER: HB 1059

NOTE PREPARED: Dec 17, 2010

BILL AMENDED:

SUBJECT: Chromated Copper Arsenate Treated Wood Issues.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits the sale of wood treated with chromated copper arsenate (CCA) for a residential use that is not a use permitted by the U.S. Environmental Protection Agency. The bill excepts the sale of wood treated with CCA that is part of a residential structure. It requires disclosure by the owner on a residential real estate sales disclosure form of any wood treated with CCA that is part of a structure located on the property. It establishes a 2-year statute of limitations for an action based on personal injury, disability, disease, or death resulting from exposure to wood treated with CCA. The action accrues on the date when the person knows that the person has a disease or injury related to exposure to wood treated with CCA.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Indiana Real Estate Commission.* The bill provides that the Indiana Real Estate Commission must adopt a specific disclosure form. The Commission should be able to adopt such a form given its existing level of resources.

Department of Environmental Management (IDEM). The IDEM Commissioner may initiate an investigation of an alleged violation. The impact of this provision will depend on future violations.

The Commissioner could issue an order or assess a civil penalty not to exceed \$25,000 per day of any violation. Alleged violators can ask for a review of any order issued by the Commissioner. If a review is requested, the Office of Environmental Adjudication must review the order. A final order of an environmental law judge is subject to judicial review. Additionally, a person who has filed a complaint may proceed against the alleged violator if IDEM does not.

Explanation of State Revenues: *Civil Penalties.* IDEM may recover civil penalties. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 is assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue.* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Indiana Real Estate Commission, IDEM, Office of Environmental Adjudication.

Local Agencies Affected: Courts.

Information Sources:

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